

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00706R

Parcel No. 241/00523-085-355

David Demanett,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 24, 2016. David Demanett was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

David Demanett is the owner of a residential two-story home located at 8131 Chambery Boulevard, Johnston. Built in 1997, it has 2695 square-feet of gross living area, and a full unfinished basement. It also has an attached three-car garage, a deck, and an open porch. The site is 0.283 acres. (Ex. A).

The property's January 1, 2015, assessment was \$305,600, allocated as \$58,600 to the land, and \$247,000 to the improvements.

Demanett's protest to the Board of Review claimed the property was assessed for more than the value authorized by law and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(b & d). Demanett's error claim essentially reasserted his over-assessment claim.

The Board of Review denied the petition. Demanett then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

A. Overassessment Claim

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

ii. Findings of Fact

Demanett testified that he has made minimal improvements to the property since he purchased it in 1998, and the assessment has only typically increased at a rate no higher than 5%. However, between 2013 and 2015 the assessment increased roughly 13%. He also reported that both sides of his street increased at the same rate including the neighbors on either side of his property. After he received a notice denying his petition, he discovered the Board of Review reduced the assessment of both neighbors'. He explained he could not understand why their assessments were reduced by roughly 6-7%, when his was not, and they all provided the same evidence.

Demanett submitted a spreadsheet of properties in his area to demonstrate the rate of increase that occurred from the original sale prices to the current assessments. (Ex. 1). He primarily places reliance on eight properties located in his immediate neighborhood: 8500 Chambery Blvd.; 5698 Chatham St.; 8170 Wellington Blvd.; 5715 Chatham St.; 8571 Newbury Ct.; 8420 Barnham Dr.; 5702 Foxboro Rd.; and 8208 Chambery Blvd. He explained that at least one of the properties in the chart is a sheriff's sale but could not identify the address at hearing. We note the majority of the properties are 200 to 600 square-feet smaller than his home. Additionally, the spreadsheet lacks information to determine whether the properties possess points of difference such as basement finish, quality of finish, or decks/patios that would impact their sales prices and assessments as compared to the subject property. Lastly, Demanett calculated various averages on the spreadsheet, but it is not clear which properties were used in the various calculations nor which values Demanett believes are indicators of the subject property's market value. Ultimately, based on his filings, it appears Demanett believes his property should be assessed for \$275,000. (BOR Protest & Appeal from Board of Review Action).

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review. She explained the Board of Review relied on five

adjusted sales of comparable properties supplied by the Assessor's Office. (Ex. B). The adjusted range of value was between \$293,400 and \$344,200, and the analysis was reconciled to a value of \$327,400. Rasmussen believes this analysis supports the subject property's current assessment.

B. Analysis & Conclusion

Demanett questions the rationale for the decrease of some assessments in his neighborhood when his assessment was not reduced. Ultimately, the comparison of neighboring assessments is insufficient evidence for a market value claim.

Demanett's spreadsheet includes a host of selected sales, and at least eight properties in his neighborhood. However, at least one is a sheriff's sale and Demanett could not identify it. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value under Iowa law.

§ 441.21(1)(b). However, "[s]ales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales." *Id.* Because we cannot determine which sale is abnormal, we cannot rely on his analysis. Moreover, although Demanett provided various calculations in an attempt to support his claim, simply averaging the unadjusted sale prices is not a recognized appraisal methodology in establishing the fair market value of a property. Demanett did not submit any other evidence of fair market value, such as an appraisal or cost analysis.


For these reasons, we find Demanett has failed to support his claim that his property is over assessed.

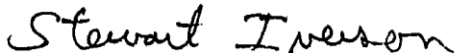
Order

Having concluded that Demanett has not shown his property is assessed for more than the value authorized by law, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 20th day of September, 2016.


Karen Oberman, Presiding Officer


Stewart Iverson, Board Chair

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